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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 08350.9722-00000	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 09/648,656	Filed August 25, 2000	
	First Named Inventor Thomas T. BUZZELL		
	Art Unit 3625	Examiner Matthew S. Gart	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reasons stated on the attached sheets. Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>41,450</u></p> <p> _____ Signature</p> <p><u>Roland G. McAndrews</u> _____ Typed or printed name</p> <p><u>(202)408-4469</u> _____ Telephone number</p> <p><u>February 20, 2007</u> _____ Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

☒ *Total of 1 forms are submitted.

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19-21, and 26-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Allsop in view of Alnwick '676 and further view of "Web Gateway Sites Keep Growing" ("Web").

Obviousness Rejections

Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness in rejecting claims 1-4, 8-11, 15-18, 22-25, and 33-40 over Allsop in view of Alnwick '676 because neither Allsop nor Alnwick '676, alone or in combination, discloses or suggests each of the limitations recited in these claims.

With respect to independent claim 1, the Examiner recognizes that Allsop does not expressly disclose the claimed middleware application system." See final Office Action, page 3. In an attempt to cure this deficiency, the Examiner proposes modifying Allsop with Alnwick '676, asserting that, "Alnwick discloses accessing . . . via a middleware application system (Alnwick: column 14, lines 63 to column 15, line 24)." Final Office Action, page 3. However, as discussed in Applicants' Reply to Office Action dated September 7, 2006, only those portions of Alnwick '676 supported by Provisional Application No. 60/173,823 to Alnwick ("Alnwick '823"), may be relied upon as prior art. Upon inspection, it is clear that the portion of Alnwick '676 cited by the Examiner in the rejection is not supported by Alnwick '823. Reference to portions of Alnwick '676 that are not supported by Alnwick '823 is inappropriate, and thus a *prima facie* case has not been met. For this reason, the rejection should be withdrawn.

Contrary to the teaching of Alnwick '676 relied upon in the rejection, the Response to Arguments section of the Office Action presents a completely new teaching in Alnwick '676 as support for a rejection of the claims. See final Office Action, page 13. In particular, the Response to Arguments section of the Office Action states that "[b]y definition, 'Ordering

Module 24' of Fig. 2 (Provisional Application No. 60/173,823) would constitute a middleware application system." *Id.* Initially, Applicants respectfully submit that this new argument that ordering module 24 of Alnwick '676 corresponds to the claimed "middleware application system" amounts to a new grounds of rejection that was not necessitated by amendment or IDS submission. In fairness, Applicants should have been given an opportunity to address this new argument in a non-final context. Accordingly, Applicants request that the finality of the present Office Action be withdrawn.

Assuming that the statements in the Response to Arguments section of the Office Action amount to a rejection of the relevant claims, Applicants respectfully traverse such a rejection. The characterization of ordering module 24 of Alnwick '676 as the claimed "middleware application system" is incorrect. Independent claim 1 recites multiple, separate systems, including, *inter alia*, a "manufacturer server system," "client system," "remote dealer system," and a "middleware application system." See, for example, the separate systems shown in Fig. 1 of the present application. Quite differently, Alnwick '823 teaches a Quick Quote Order module page 24 that is a linked page on a company's website. See Alnwick '823, page 4. Clearly, Quick Quote Order module page 24 is not a separate system as claim 1 of the present patent application requires. In view of this, Applicants submit that Alnwick '676 cannot remedy the admitted deficiencies of Allsop, and thus this rejection should be withdrawn.

On page 4 of the Office Action, the Examiner states that, "Allsop in view of Alnwick do not expressly disclose a manufacturing server system hosting a manufacturer's web site and a plurality of dealer web sites," but argues that, "including various web site hosting configurations would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice." Final Office Action, page 4. Applicants respectfully

disagree with the Examiner's arguments. Initially, the Examiner's contention that inclusion of the step would be an obvious matter of design choice is improper because such a proposed modification is not capable of instant and unquestionable demonstration as being well-known. See MPEP 2144.03. This is particularly true in light of the fact that Allsop separates the manufacturer web sites 41 and 42 from the web-linked dealer ("WLD") order processing units 44-49 so that the manufacturers can control authorized on-line dealer sales by choosing to have a dealer linked to its web page only if the dealer meets certain requirements. See Allsop, column 7, lines 41-45.

Furthermore, this proposed modification is improper because it fails to consider Applicants' invention as a whole, being that the two different modifications proposed by the Examiner to reject independent claim 1 are contradictory. For example, modifying Allsop to have manufacturer web sites 41 and 42 on a single server 50 with WLD order processing units 44-49 would preclude the possibility of the proposed modification of Allsop by Alnwick '676 of having a middleware application system between the manufacturer web sites 41 and 42 and WLD order processing units 44-49. Thus, Allsop cannot be modified to have both a middleware application system and the manufacturer web sites 41 and 42 and WLD order processing units 44-49 on a single server system. For all of the above reasons, the Examiner has failed to establish a *prima facie* case, and independent claim 1 is patentable.

Reconsideration is requested.

Independent claims 8, 15, 22, 34, 35, and 37, although of different scope, each recite language similar to independent claim 1. Thus, Allsop and Alnwick, whether taken alone or in combination, fails to render independent claims 8, 15, 22, 34, 35, and 37, at least for the same reasons discussed above with respect to independent claim 1. Claims 2-4, 9-11, 16-18, 23-25,

33, 36, and 38-40 all depend either directly or indirectly from independent claims 1, 8, 15, 22, 34, 35, and 37, and are therefore allowable for at least the same reasons stated above that claims 1, 8, 15, 22, 34, 35, and 37, are allowable. In addition, each of these claims recite unique combinations that are neither taught nor suggested by the cited art, and therefore each is also separately patentable.

Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness in rejecting claims 5-7, 12-14, 19-21, and 26-28 over Allsop in view of Alnwick in further view of Web. Web fails to remedy the deficiencies of Allsop and Alnwick. Moreover, Web is not cited for such a purpose. Accordingly, since claims 5-7, 12-14, 19-21, and 26-28 all depend either directly or indirectly from independent claims 1, 8, 15, and 22, they are therefore allowable for at least the same reasons stated above that claims 1, 8, 15, and 22 are allowable. In addition, each of these claims recite unique combinations that are neither taught nor suggested by the cited art, and therefore each is also separately patentable.

Conclusion

In view of the above, Applicants request that the rejection of these claims be withdrawn and the claims allowed.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: February 20, 2007

By: 

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